

## Listening Session: East African Employees & Employers

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The Workplace Partnership Group conducted a listening session on Tuesday, January 26, 2016, to engage the East African community. The session was conducted at the African Development Center of Minnesota, 1931 S. 5th Street, beginning at 2:42 p.m. Participants were invited to provide their perspectives in response to a pre-arranged set of questions related to policy issues concerned with earned sick time and paid time-off (PTO). The following is a summary of feedback from this listening session.

### PARTICIPANT FEEDBACK

*[The following questions established the broad framework within which participants were invited to provide feedback.]*

**Question #1. How broadly or narrowly should the City of Minneapolis consider coverage to effectively address the public health and equity concerns associated with policies related to earned sick time and paid time-off?**

**Question #2. How should paid sick time and/or paid time-off be used? What are your experiences in offering this kind of coverage, or in using paid sick time?**

**Question #3. How should paid sick time and/or paid time-off be earned? Should it vary by hours worked, business sector, revenue, number of employees? Should it be capped?**

**Question #4. What, if any, measures should be considered to ensure workers are not penalized for using paid sick time, and to ensure that employers are not subject to undue hardship or abuse of such policies?**

One participant, an employer in the restaurant industry, said he provided paid time-off to employees on an “as-needed” bases, reflecting the belief that if a worker is sick then they needed that time to attend to their healthcare needs. If necessary, for example, in the instance when an employee may not be truthful about the need for or the use of paid time-off, then documentation is requested to verify the illness; for example, requiring a doctor’s note. This helps to minimize the potential for abuse of the benefit. With respect to the proposed municipal policy on earned sick time, he questioned how employers might be required to provide paid time-off and if that mandate would be enforced regardless of other circumstances or if provisions would be provided to protect employers against potential abuse by employees. He said that, from his interactions within the East African business community, there was very little awareness about this initiative, which generated significant concerns when the issue was raised in his personal contacts. He said the lack of specificity about the proposal made it difficult to provide meaningful feedback or to contribute to policy elements that might be considered.

Another employer representative said his company provided a universal PTO benefit; if an employee needed time away from the job, whether for sick time, vacation, or other personal needs, then they had access to that PTO. He said new employees were given 16 days of PTO and this benefit could increase, based on length of service over time. However, he said the total PTO benefit did not carry over from year to year; those hours not used were eliminated at the end of the year (a “use-it-or-lose-it” approach). He explained that, from an operational perspective, his company made great effort to be lenient in its application of leave-time benefits and preferred to work with employees on a case-by-case basis, reflecting community values that emphasized a family-first approach to operating a business. For example, he indicated one employee in his company had a father with a terminal illness who used all her accrued PTO but needed additional time to care for her father, and the company worked with her to ensure she had the time required to do so. As another example, he pointed to efforts to provide paid leave for expectant mothers, even though not necessarily legally

required. He said this approach reflected the company's position in doing right by their employees. He said this was typical of most Somali-owned businesses, reflecting cultural values.

Still, from the employer perspective, it was pointed out that giving paid leave benefits to employees came at a cost, not all of which was easy to anticipate or forecast accurately. Especially for businesses with shifts that must be covered, the absence of an employee essentially requires that the business pay double: once for the employee claiming paid time away from the job (possibly due to illness) and then again to cover the scheduled shift. That double-impact could create a hardship on businesses, especially if a broad policy mandate didn't allow for the flexibility that is typically incorporated in operating models used by most small businesses. The need to balance the capacity of larger corporations to adapt to such policies versus the more limited resources available to small businesses was emphasized.

In response to follow-up questions about unique cultural issues, participants said it would be important to ensure a municipal policy included allowances to tailor its application to the unique needs of small businesses; strict adherence to regulatory requirements—for example, rules related to mandatory documentation verifying illness, notice provisions, etc.—could create additional hurdles or unnecessary burdens that might create frustrations. Many expressed concern that a uniform policy applicable to all businesses in the city—whether a large or small-sized business and regardless of specific industry or sector—would be impractical and would probably result in unneeded complexity, both in its implementation, ongoing administration, monitoring, and—most worrisome—enforcement and compliance aspects. As a consequence, some of the business owners or representatives of businesses that were participating in the listening session suggested this was a subject the city should not pursue. They suggested that such a policy might be seen as a disincentive toward starting or maintaining a business in Minneapolis. One employee representative said she was quite happy with the benefits she currently received from her employer, and she would not want any change because of action by the city related to a sick time policy mandate.

Participants were curious about the experiences of other jurisdictions where similar policies had been enacted, which was discussed with members of the Workplace Partnership Group in attendance. Responding to specific concerns about the potential impact to small businesses, it was suggested that incorporating an “either/or” provision might be a good strategy: *either* a business is required to meet the minimal standards set by the city policy, *or* the business could provide a level of benefits that were better than the minimal standards set by the city policy. That way, small businesses that already satisfied requirements in the city policy might be exempted without further monitoring or compliance issues.

Participants questioned whether a more appropriate approach for the city would be to target and pursue action against those businesses that didn't provide satisfactory work environments for employees, including lack of access to paid sick time. Rather than enacting a broad mandate applicable to all businesses, it was suggested the city could better use its resources to enforce compliance by the “bad actors” within the business community. Some questioned if the city had the authority to enact a policy that would target employees not currently receiving any paid leave benefits, rather than a policy mandate that might have unintended, negative consequences to employees already receiving such benefits (and happy with them). In a similar way, participants questioned whether it was a smarter approach to elevate the initiative to a state-wide level, that way businesses in Minneapolis didn't suffer marketplace competition to neighboring communities.

In response to clarifying questions, some participants suggested that if a policy mandate were enacted at the city level, it should give businesses some level of discretion for determining how strict enforcement was required with their own employees; for example, allowing businesses to determine if and when a doctor's note was required to use accrued time off. Most expressed the belief that there should be trust between employers and employees, and said this was usually the case, but recognized the need for protections for both employers and employees to guard against potential abuses. However, at the same time, many said the city needed to be careful not to provoke mistrust in the relationship between employers and employees by mandating certain requirements that could exasperate access to, use of, or monitoring of paid leaves.

One participant repeated the concern—expressed earlier—that, within the Somali business community, there was little awareness of the city’s pursuit of a potential universal sick time policy. When the issue is raised in conversation, there is an immediate fear about the consequences of this proposal and what it could mean for the Somali community, which is heavily invested in small businesses and even micro-businesses, particularly in terms of the cost implications. He said that some of the potential payroll expenses implicated by such a policy mandate are worrisome to most Somali business owners. He and others suggested the need for further study before the city proceeds.

As it relates specifically to the Somali community, one participant said that the trust relationship between businesses and employees was checked by elders within the community, who served as a community resource to mediate disputes. She suggested the city should learn from this example and ensure that, if a policy were enacted, to provide a neutral resource where both businesses and workers could get assistance in mediating conflicts, complaints, challenges, or confrontations.